

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

KYLE FELLERS, ANTHONY FOOTE,
NICOLE FOOTE, and ELDON RASH,

Plaintiffs,

v.

MARCY KELLEY, Superintendent of
Schools, State Administrative Unit 67, in
her official and individual capacities;
MICHAEL DESILETS, Athletic
Director, Bow High School, in his official
and individual capacities; MATT FISK,
Principal, Bow High School, in his
official and individual capacities;
PHILLIP LAMY, Lieutenant, Bow Police
Department, in his individual capacity;
STEVE ROSSETTI, soccer referee, New
Hampshire Interscholastic Athletic
Association, in his individual capacity;
and BOW SCHOOL DISTRICT.

Defendants.

Case No. 1:24-cv-00311-SM-AJ

TEMPORARY RESTRAINING ORDER

BEFORE THE COURT is Plaintiffs' Motion for Temporary Restraining Order. The Court finds that Plaintiffs are likely to succeed on their claims that Defendants violated their First Amendment rights, and they face immediate irreparable harm from Defendants prohibiting them from exercising their First Amendment rights at the upcoming soccer game on October 8, 2024, at 6:45 PM, as well as the remaining Bow High School girls' varsity soccer games during the fall 2024 season. *See Roman*

Catholic Diocese v. Cuomo, 592 U.S. 14, 19 (2020). IT IS THEREFORE ORDERED that Defendants, their officers, agents, servants, employees, and all persons in active concert or participation with them who receive actual notice of the injunction, are temporarily restrained from:

- a. Preventing Plaintiffs from attending upcoming Bow High School girls' varsity soccer games, including the away game on October 8, 2024, at 6:45 PM and the next home game on October 11, 2024 at 4:00 PM.
- b. Enforcing the No Trespass Order issued against Kyle Fellers on September 19, 2024, which covers both home and away games.
- c. Enforcing those parts of Policy KFA – Public Conduct on School Property that (1) require “mutual respect, civility, and orderly conduct among all individuals on school property or at a school event,” (2) prohibit “injur[ing], threaten[ing], harass[ing], or intimidat[ing],” and (3) prohibit “imped[ing], delay[ing], disrupt[ing], or otherwise interfer[ing] with any school activity or function” to prevent attendees at an extracurricular event from non-disruptively expressing disfavored viewpoints on political or social issues, including protesting against allowing biological boys playing in girls' and women's sports, by silently wearing a pink wristband on the sidelines or displaying a sign in the parking lot;
- d. Enforcing the Bow High School's Athletics Handbook to prevent attendees at an extracurricular event from non-disruptively expressing

disfavored viewpoints on political or social issues, including protesting against allowing biological boys playing in girls' and women's sports, by silently wearing a pink wristband on the sidelines or displaying a sign in the parking lot;

- e. Enforcing either Policy KFA – Public Conduct on School Property or the Bow High School's Athletics Handbook in such a way as suppress non-disruptive expression of political or social views based on audience reaction or a heckler's veto.

This order shall remain in effect until at least _____ unless this Court takes further action on Plaintiffs' request for a preliminary injunction.

SO ORDERED on October __, 2024, at ____: ____ AM / PM.

Steven J. McAuliffe
United States District Judge

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Defendants.

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ORDER

BEFORE THE COURT is Plaintiffs' Motion for Preliminary Injunction. The Court, having considered the motion on file and all arguments of counsel, hereby finds that Plaintiffs' Motion for Preliminary Injunction is well-taken and should be GRANTED. Plaintiffs are likely to succeed on their claims that Defendants violated their First Amendment rights and are experiencing irreparable harm.

IT IS THEREFORE ORDERED that pending final judgment, Defendants, their officers, agents, servants, employees, and all persons in active concert or participation with them who receive actual notice of the injunction, are preliminarily enjoined from:

- a. Preventing Plaintiffs from attending upcoming any Bow High School girls' varsity soccer games, including both home and away games or preventing Plaintiffs from silently wearing pink wristbands on the sidelines of such games.
- b. Enforcing the No Trespass Order issued against Kyle Fellers on September 19, 2024, which covers both home and away games.
- c. Enforcing those parts of Policy KFA – Public Conduct on School Property that (1) require “mutual respect, civility, and orderly conduct among all individuals on school property or at a school event,” (2) prohibit “injur[ing], threaten[ing], harass[ing], or intimidat[ing],” and (3) prohibit “imped[ing], delay[ing], disrupt[ing], or otherwise interfer[ing] with any school activity or function” to prevent attendees at an extracurricular event from non-disruptively expressing disfavored viewpoints on political or social issues, including protesting against allowing biological boys playing in girls' and women's sports, by silently wearing a pink wristband on the sidelines or displaying a sign in the parking lot;

- d. Enforcing the Bow High School's Athletics Handbook to prevent attendees at an extracurricular event from non-disruptively expressing disfavored viewpoints on political or social issues, including protesting against allowing biological boys playing in girls' and women's sports, by silently wearing a pink wristband on the sidelines or displaying a sign in the parking lot;
- e. Enforcing either Policy KFA – Public Conduct on School Property or the Bow High School's Athletics Handbook in such a way as suppress non-disruptive expression of political or social views based on audience reaction or a heckler's veto.

SO ORDERED.

This _____ day of _____, 2024.

Steven J. McAuliffe
United States District Judge